

REMARKS

Please reconsider this application in view of the above amendments and following remarks. Applicant thanks the Examiner for indicating that claims 1-7 and 15-17 are allowable.

Disposition of Claims

Claims 1-10 and 15-17 are currently pending in this application. Claims 1 and 3-5 are independent. The remaining claims depend, directly or indirectly, from the independent claims.

Claim Amendments

Claims 1 and 3-5 have been amended by way of this reply to clarify the term “each of a plurality of drivers” and to recite that the switching of a mobile device to a drive mode applies “only to the mobile communication device in possession of the current driver of the vehicle.” Support for this limitation may be found throughout the specification (*see, e.g.*, paragraph [0020]). No new matter has been added.

Rejections under 35 U.S.C. § 103(a)

Claims 1, 3-10, 16, and 17

Claims 1, 3-10, 16, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Publication No. 2005-056000 (“Kanzaki”) in view of U.S. Patent Publication No. 2003/0032460 (“Cannon”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed for the reasons below.

Referring to the specification by way of example, the claimed invention relates to telephone countermeasure configured to automatically suppress hands-on mobile communication in

a vehicle. In the claimed invention, the driver of a vehicle is identified in a database by way of face authentication, the information identification information of the mobile device used by the identified driver is extracted from the same database, and the mobile telephone of the driver is automatically switched to drive mode based on the extracted identification information (*see* paragraph [0007] of the specification). The “drive mode” includes a message recording mode and a hands-free mode, which is automatically selected as needed (*see* paragraph [0011] of the specification). Because the mobile device is automatically switched to the drive mode, the communication of the driver can be efficiently suppressed. Further, because only the mobile device of the driver who actually drives the vehicle is switched to the drive mode, there is no problem that a mobile device of other passengers in the vehicle is switched to the drive mode (*see* paragraph [0011] of the specification).

Consistent with the above, amended claims 1 and 3-5 recite, in pertinent part, “a database which registers face data of a driver and identification information of a mobile communication device used by the driver for each of a plurality of drivers; [and] a driver identifying means which identifies current driver of a vehicle in the database by face recognition.” Further, claim 1 recites, in part, “a mode switching means which . . . switches the mobile communication device of the driver to a drive mode using the identification information,” claims 3 recites, in part, “the mobile communication device of the driver is switched to a drive mode using the identification information,” and claims 4-5 recite, in part, “switching the mobile communication device of the driver to a drive mode using the identification information.” Further still, claims 1 and 3-5 recite that the switching to the drive mode applies “only to the mobile communication device in possession of the current driver of the vehicle.” As explained below, Applicant notes that the cited references fail to disclose at least these limitations.

Referring to one of the cited references, Kanzaki discloses a regulating device for monitoring and regulating a driver driving while using a mobile phone in hands-on mode (as opposed to hands-free mode). The regulating device disclosed by Kanzaki includes a radio signal receiving member, a speed measuring member, vehicle identifying member, a camera, and a picture recognizing member (*see* Abstract of Kanzaki). The camera and the receiving member of the regulating device are configured to be installed outdoors, e.g., on a power pole provided near a road, where passing vehicles can be monitored from a high altitude (*see* paragraph [0054] and Fig. 2 of Kanzaki). When the regulating device determines that a passing driver was driving while using a mobile phone in hands-on mode, documentary evidence is generated as proof (*see* paragraph [0017] of Kanzaki). In this way, the regulating device monitors and regulates the illegal conduct of driving while using a mobile phone in hands-on mode (*see* paragraph [0012] of Kanzaki). Kanzaki, however, fails to support the Examiner's assertion of obviousness because Kanzaki is actually completely unrelated to the claimed invention.

In the Office Action, the Examiner asserts that Kanzaki discloses a storage for storing face data of a driver and identification of a mobile telephone used by the driver for each driver and a driver ID means for identifying a current driver by facial recognition. This assertion is incorrect—in fact, Kanzaki is completely silent on face data or driver identification by means of facial recognition. Rather, the regulating device disclosed by Kanzaki operates as follows. First, the camera obtains pictures of a passing vehicle's driver and license plate. Then, the picture recognizing member uses the pictures to determine whether the driver was operating a mobile phone in hands-on mode. If the picture recognizing member determines that the driver was using a mobile phone in hands-on mode, the receiving member uses the license plate number to retrieve the driver's

information from a database of a regulation center, and finally a proof generating member generates documentary proof of the illegal conduct (*see* paragraphs [0053]-[0058]).

In other words, as opposed to using facial recognition to identify the driver, the regulating device of Kanzaki is used to determine whether the driver was driving while using a mobile phone in hands-on mode and generate documentary proof with the aim of regulating those who drive while using a mobile phone in hands-on mode. Further, the regulating device of Kanzaki identifies the driver not by facial recognition but by using the license plate number captured by the camera and the information sent from the database of the regulation center based on the license plate number (*see* paragraph [0014]-[0015] of Kanzaki). Therefore, contrary to the Examiner's assertions, Kanzaki fails to disclose "a database which registers face data of a driver and identification information of a mobile communication device used by the driver for each of drivers," or "a driver identifying means which identifies current driver of a vehicle in the database by face recognition," as required by claims 1 and 3-5.

Further, on page 2 of the Office Action, the Examiner noted that "Kanzaki discloses the driver is talking on the phone over the hand-free equipment which means the telephone can be switched from a phone mode to a hand-free mode, which is known to those skilled in the art." Applicant respectfully disagrees, and notes that Kanzaki does not disclose any switching between a phone-mode and a hands-free mode. Rather, the regulating device disclosed by Kanzaki merely determines whether the driver was driving while using a mobile phone in hands-on mode. If the device determines that the driver was driving while not using a mobile phone in hands-on mode, which could mean that the driver was using a mobile phone in hands-free mode or the driver was not using a mobile phone, the device takes no further action (*see* paragraph [0036] of Kanzaki).

In fact, Kanzaki states that such a switching means is not a realistic solution in regulating a driver's use of a mobile phone while driving, because not all drivers possess a mobile phone with such a switching function and because the law cannot impose the mandatory use of hands-free devices. Accordingly, Kanzaki is not only wholly unrelated to a phone switching function, but also, teaches away from such an invention. Therefore, Kanzaki fails to disclose at least the limitation of "a mode switching means" as required by claim 1 and "switching the mobile communication device of the driver to a drive mode using the identification information" as required by claims 3-5.

Referring to the other cited reference, Cannon discloses a wireless multi-user hands-free gateway capable of wireless operation with any of a plurality of wireless phones within a vehicle. The wireless multi-user hands-free gateway automatically identifies users within range, and gives priority use to the user detected (*see* Abstract of Cannon). When an incoming call is received by a current driver of a vehicle, the driver's wireless phone establishes a BLUETOOTH audio connection with the wireless multi-user hands-free gateway, and the wireless multi-user hands-free gateway answers the call (*see* flowchart of Fig. 5 and paragraphs [0054]-[0055] of Cannon). Cannon's wireless multi-user hands-free gateway, however, does not teach or suggest all the limitations of the claimed invention.

With the wireless multi-user hands-free gateway of Cannon, if a passenger other than the driver makes use of the hands-free functionality, all others (including the driver) are directed to use manual mode (*see* paragraph [0064] of Cannon). If the driver receives an incoming call while another passenger is using the wireless multi-user hands-free gateway, the driver of the vehicle returns a busy or not available signal or, alternatively, the passenger is directed to terminate use of the wireless multi-user hands-free gateway if the incoming call is received by the driver (*see* Figs.

7-8 and paragraphs [0065]-[0068] of Cannon). In other words, the wireless multi-user hands-free gateway prioritizes hands-free mode for the driver, but is capable of providing hands-free mode to only one person at any given time. As a result, though the wireless multi-user hands-free gateway may effectively suppress communication of the driver, it also forces the other passengers to terminate their calls prematurely and precludes other passengers from using the hands-free mode while the driver is on the phone (*see* paragraphs [0065]-[0068] of Cannon).

The claimed invention, on the other hand, is designed to avoid such a configuration and suppresses communication of only the driver actually driving the vehicle (*see* paragraph [0003] of the specification: "in the conventional methods, communication of a fellow passenger as well as communication of the driver may be suppressed. The communication of only the driver in the vehicle need be suppressed and the communication of the fellow passenger need not be suppressed."). Therefore, Cannon fails to teach or suggest at least the limitation of amended claims 1 and 3-4 that the switching applies "only to the mobile communication device in possession of the current driver of the vehicle." Further, by disclosing that the switching occurs with respect to not only the driver's phone, but also, to the phones of the other passengers in the same vehicle, Cannon actually teaches away from the claimed invention as well because the claimed invention is configured to specifically avoid switching the mobile device of anyone other than the current driver of the vehicle. Hence, one skilled in the art in possession of Kanzaki and Cannon would not be led to achieve the claimed invention.

In view of the above, Kanzaki and Cannon, whether considered separately or in combination, fail to teach or suggest all the limitations of claims 1 and 3-5. Therefore, claims 1 and 3-5 are patentable over Kanzaki and Cannon. By virtue of their dependence, claims 6-10, 16, and

17 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 2 and 15

Claims 2 and 15 stand rejected under U.S.C. § 103(a) as being unpatentable over Kanzaki in view of Cannon and in further view of U.S. Patent Publication No. 2004/0214596 ("Lee"). For the reasons that follow, this rejection is respectfully traversed.

Lee relates to methods and systems for mobile communication systems that enable a user to make and receive a call hands-free. The methods and systems of Lee provide hands-free mobile communication when one is driving an automobile, particularly without the driver having to take out the mobile phone, place it in the holder of a hands-free system, and connect a cord. Although Lee discloses using facial recognition to identify the driver, Lee is completely silent on the switching means as required by the claimed invention and, therefore, does not disclose at least the above-mentioned limitations of claims 1 and 3-5.

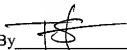
In view of the above, Lee fails to teach or suggest that which Kanzaki and Cannon lack with respect to these claims. This is evidenced by the fact that Lee was relied upon merely to disclose identifying a driver by means of facial recognition. Therefore, Lee, Kanzaki, and Cannon, whether considered separately or in combination, fail to teach or suggest all the limitations of claims 1 and 3-5. Hence, claims 1 and 3-5 are patentable over Lee, Kanzaki, and Cannon. By virtue of their dependence, claims 2 and 15 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17276/002001).

Dated: June 3, 2008

Respectfully submitted,

By 

Thomas K. Scherer
Registration No.: 45,079
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant